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5 UNITED STATES DISTRICT COURT
6 WESTERN DISTRICT OF WASHINGTON
7 AT TACOMA

8 ADRIAN CONTRERAS-REBOLLAR,

9 Plaintiff,

10 v.

11 RONALD CULPEPPER, et al.,

12 Defendants.

CASE NO. C12-5689 BHS

ORDER ADOPTING REPORT
AND RECOMMENDATION

13 This matter comes before the Court on the Report and Recommendation ("R&R")
14 of the Honorable J. Richard Creatura, United States Magistrate Judge (Dkt. 6), and
15 Plaintiff Adrian Contreras-Rebollar's objections to the R&R (Dkt. 7).

16 On August 17, 2012, Judge Creatura accepted Plaintiff's civil rights complaint
17 (Dkt. 5). On August 21, 2012, Judge Creatura issued the R&R recommending that the
18 Court dismiss Plaintiff's complaint prior to service because (1) the majority of the named
19 defendants are entitled to judicial immunity, (2) the other named defendants are not state
20 actors, and (3) Plaintiff must challenge the propriety of his criminal conviction through
21 habeas corpus. Dkt. 6.
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1 On September 10, 2012, Plaintiff filed objections to the R&R and argued that (1)
2 judicial immunity does not apply under *Stump v. Sparkman*, 435 U.S. 349 (1987), and (2)
3 Plaintiff's appointed counsel was acting under color of law. Dkt. 7. Both of Plaintiff's
4 arguments are without merit. First, the trial judge and the appellate judges are entitled to
5 judicial immunity based on the alleged facts in Plaintiff's complaint. Plaintiff alleges
6 errors during his trial and the denial of his personal restraint petition as untimely. None
7 of the alleged acts subject any judicial officer to liability. Therefore, the Court adopts the
8 R&R on this issue.

9 Second, Plaintiffs alleges errors of counsel that should have been handled by
10 either a direct appeal or a collateral attack, such as a personal restraint petition or petition
11 for habeas relief. Plaintiff's attempt to convert these alleged errors into a civil rights
12 violation is without merit and precluded by *Heck v. Humphrey*, 512 U.S. 477, 487 (1994).
13 Therefore, the Court adopts the R&R on this issue.

14 The Court having considered the R&R, Plaintiff's objections, and the remaining
15 record, does hereby find and order as follows:

16 (1) The R&R is **ADOPTED**; and

17 (2) This action is **DISMISSED**.

18 Dated this 22nd day of October, 2012.

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BENJAMIN H. SETTLE
United States District Judge